

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

COSTCO WHOLESALE
CORPORATION,

Defendant.

Case No. 3:14-cv-03989

CONSENT DECREE

CONSENT DECREE

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1 WHEREAS, Plaintiff, the United States of America, on behalf of the United States
2 Environmental Protection Agency (“EPA”), has filed a Complaint in this action concurrently
3 with this Consent Decree, alleging that Defendant, Costco Wholesale Corporation (“Costco”),
4 violated Section 608 of the Clean Air Act (“CAA” or the “Act”), 42 U.S.C. § 7671g, and the
5 commercial refrigerant repair and recordkeeping regulations at 40 C.F.R. Part 82, Subpart F,
6 §§ 82.150-82.169 (Recycling and Emissions Reduction);

7 WHEREAS, the Complaint alleges that Costco has failed to comply with the leak repair
8 and/or recordkeeping requirements of 40 C.F.R. Part 82, Subpart F, at some or all of the
9 Warehouses identified in Appendix A to this Consent Decree;

10 WHEREAS, on November 1, 2007, EPA issued an information request to Costco
11 pursuant to Section 114 of the Act, 42 U.S.C. § 7414, regarding the repair of leaks from
12 commercial refrigeration appliances normally containing more than 50 pounds of refrigerant that
13 includes a class I or class II ozone-depleting substance, and EPA subsequently narrowed such
14 request to cover 45 Warehouses in California, Arizona, Nevada, and Hawaii;

15 WHEREAS, on January 17, 2008, and March 11, 2008, Costco submitted its responses to
16 EPA’s information request, including approximately 25,000 pages of equipment records;

17 WHEREAS, the allegations in the Complaint are based on EPA’s analysis of the
18 information contained in Costco’s responses to EPA’s information request;

19 WHEREAS, according to the data in Costco’s leak monitoring system, Costco’s
20 Corporate-Wide Average Leak Rate for the 12 months from March 2010 to February 2011 was
21 24.1 percent;

22 WHEREAS, between January 1, 2013, and June 20, 2014, Costco retrofitted all Covered
23 Appliances at 32 Warehouses to use Non-ODS Refrigerant;

24 WHEREAS, Costco denies liability to the United States arising out of the transactions or
25 occurrences alleged in the Complaint;

26 WHEREAS, the Parties recognize, and the Court by entering this Consent Decree finds,
27 that this Consent Decree has been negotiated by the Parties in good faith and will avoid litigation
28 between the Parties and that this Consent Decree is fair, reasonable, and in the public interest;

1 NOW, THEREFORE, before the taking of any testimony, without the adjudication of or
 2 admission of any issue of fact or law except as provided in Section I, and with the consent of the
 3 Parties, IT IS HEREBY ADJUDGED, ORDERED, AND DECREED as follows:

4 I. JURISDICTION, VENUE, AND NOTICE

5 1. This Court has jurisdiction over the subject matter of this action and over the
 6 Parties pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), and 28 U.S.C. §§ 1331, 1345,
 7 and 1355. Venue lies in this district pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b),
 8 and 28 U.S.C. §§ 1391(b) and 1395(a), because some of the alleged violations in the Complaint
 9 are alleged to have occurred in, and Costco conducts business in, this judicial district. For
 10 purposes of this Decree, or any action to enforce this Decree, Costco consents to the Court's
 11 jurisdiction over this Decree and any such action and over Costco and consents to venue in this
 12 district.

13 2. The United States has given notice of the commencement of this action to the
 14 applicable air pollution control agencies as required by Section 113(b) of the Act, 42 U.S.C.
 15 § 7413(b).

16 II. APPLICABILITY

17 3. The obligations of this Consent Decree apply to and are binding upon the United
 18 States, and upon Costco and any successors, assigns, or other entities or persons otherwise bound
 19 by law.

20 4. At least 30 days prior to any transfer of ownership or operation of a Warehouse,
 21 Costco shall provide a copy of this Consent Decree to the proposed transferee. If the transferee
 22 is a Costco affiliate, this Consent Decree shall continue to apply in full. At least 15 days prior to
 23 a transfer to a non-Costco affiliate, Costco shall provide written notice of the prospective
 24 transfer, together with a copy of the proposed written agreement, to the United States
 25 Department of Justice, in accordance with Section XV of this Decree (Notices), and shall submit
 26 to the United States a plan to ensure that the Refrigerant Compliance Management Plan, or
 27 another refrigerant compliance management plan approved by EPA, continues to be
 28 implemented at the transferred Warehouse. Any attempt to transfer ownership or operation of a

Warehouse without complying with this Paragraph constitutes a violation of this Decree.

5. Costco shall provide a copy of this Consent Decree to all officers and managers whose duties materially include compliance with any provision of this Decree.

6. In any action to enforce this Consent Decree, Costco shall not raise as a defense the failure by any of its officers, directors, employees, agents, or contractors to take any actions necessary to comply with the provisions of this Consent Decree.

III. OBJECTIVES

7. The objectives of this Consent Decree are: (a) to further the goals of Subchapter VI of the Act, 42 U.S.C. §§ 7671-7671q, and EPA's commercial refrigerant repair and recordkeeping regulations at 40 C.F.R. Part 82, Subpart F, and (b) to resolve the civil claims of the United States as provided in Section XIII (Effect of Settlement/Reservation of Rights).

IV. DEFINITIONS

8. Terms used in this Consent Decree that are defined in the Act or in regulations promulgated pursuant to the Act shall have the meanings assigned to them in the Act or such regulations as of the date of lodging of this Decree, unless otherwise provided in this Decree. Whenever the terms set forth below are used in this Consent Decree, the following definitions shall apply:

a. "Appliance," as defined in 40 C.F.R. § 82.152, shall mean any device which contains and uses a Refrigerant and which is used for household or commercial purposes, including any air conditioner, refrigerator, chiller, or freezer;

b. "Centrally Monitored Refrigerant Leak Detection System" shall mean an automated, computerized system for detecting Refrigerant leaks that, upon detecting a leak, automatically notifies Costco staff at the Warehouse and at Costco's headquarters or other central location responsible for overseeing multiple Warehouses;

c. "Complaint" shall mean the complaint filed by the United States in this action;

d. "Consent Decree" or "Decree" shall mean this Decree and all appendices attached hereto (listed in Section XXIV);

1 e. "Costco" shall mean Defendant Costco Wholesale Corporation;

2 f. "Corporate-Wide Average Leak Rate" for a calendar year shall mean the
3 total number of pounds of Refrigerant added to all Covered Appliances at all Warehouses during
4 such calendar year (not including the initial charge of Refrigerant added to any new Covered
5 Appliance) divided by the total Full Charge of all Covered Appliances at all Warehouses during
6 such calendar year. For purposes of this subparagraph, the "total number of pounds of
7 Refrigerant added to all Covered Appliances" shall not include (i) the initial charge of
8 Refrigerant added to any new Covered Appliance; (ii) where Refrigerant has been recovered
9 from an existing Covered Appliance in compliance with 40 C.F.R. § 82.156, the amount of any
10 Refrigerant used to recharge such Covered Appliance, up to the amount of Refrigerant
11 recovered; or (iii) the amount of any Refrigerant added to a Covered Appliance to replace
12 Refrigerant released as the result of an event that EPA agrees constitutes a force majeure event
13 under Section X of this Consent Decree (Force Majeure). For purposes of this subparagraph, the
14 "total Full Charge of all Covered Appliances" shall include the Full Charge of any appliance that
15 was at one time a Covered Appliance and that, after January 1, 2013, has been retrofitted to use,
16 or replaced by an appliance that uses, refrigerant that does not consist in part or whole of a class I
17 or class II ozone-depleting substance;

18 g. "Covered Appliance" shall mean a commercial refrigeration Appliance
19 with a Full Charge of more than 50 pounds of Refrigerant;

20 h. "Day" shall mean a calendar day. In computing any period of time under
21 this Consent Decree, where the last day would fall on a Saturday, Sunday, or federal holiday, the
22 period shall run until the close of business of the next business day;

23 i. "Effective Date" shall have the definition provided in Section XVI;

24 j. "EPA" shall mean the United States Environmental Protection Agency
25 and any successor departments or agencies of the United States;

26 k. "Full Charge," as defined in 40 C.F.R. § 82.152, shall mean the amount of
27 Refrigerant required for normal operating characteristics and conditions of the Appliance as
28 determined by using one or a combination of the following four methods:

1 i. Use the equipment manufacturer's determination of the correct
2 Full Charge for the equipment;

3 ii. Determine the Full Charge by making appropriate calculations
4 based on component sizes, density of Refrigerant, volume of piping, and other relevant
5 considerations;

6 iii. Use actual measurements of the amount of Refrigerant added or
7 evacuated from the appliance; and/or

8 iv. Use an established range based on the best available data regarding
9 the normal operating characteristics and conditions for the Appliance, where the midpoint of the
10 range will serve as the Full Charge, and where records are maintained in accordance with 40
11 C.F.R. § 82.166(q);

12 1. "Global Warming Potential" shall mean how much a given mass of a
13 chemical contributes to global warming over a 100-year time horizon compared to the same mass
14 of carbon dioxide, as determined pursuant to IPCC, Climate Change 2007: The Physical Science
15 Basis, Contribution of Working Group I to the Fourth Assessment Report of the
16 Intergovernmental Panel on Climate Change (2007).

17 m. "Glycol Secondary Loop Refrigeration System" shall mean a refrigeration
18 system in which the secondary fluid loop, circulating between the primary fluid loop and the
19 refrigerator or chiller, contains propylene glycol and not Refrigerant as the heat transfer fluid;

20 n. "Non-ODS Refrigerant" shall mean any substance not consisting in part or
21 whole of a class I or class II ozone-depleting substance that is used for heat transfer purposes and
22 provides a cooling effect;

23 o. "Paragraph" shall mean a portion of this Decree identified by an Arabic
24 numeral or an upper or lower case letter;

25 p. "Parties" shall mean the United States and Costco;

26 q. "Refrigerant," as defined in 40 C.F.R. § 82.152, shall mean any substance
27 consisting in part or whole of a class I or class II ozone-depleting substance that is used for heat
28 transfer purposes and provides a cooling effect;

1 r. “Refrigerant Compliance Management Plan” shall mean the plan (attached
2 as Appendix B to this Consent Decree) prepared by Costco and approved by EPA that is directed
3 at assuring compliance with 40 C.F.R. Part 82, Subpart F (2012), at the Warehouses, and any
4 subsequent amendments or changes to such plan made in accordance with Paragraph 13 of this
5 Decree;

6 s. “Section” shall mean a portion of this Decree identified by a Roman
7 numeral;

8 t. “United States” shall mean the United States of America, acting on behalf
9 of EPA; and

10 u. “Warehouse” shall mean any membership warehouse in the United States
11 owned or operated by Costco with one or more Covered Appliances, including any such
12 membership warehouse opened to the public after the date of lodging of the Consent Decree.

13 V. CIVIL PENALTY

14 9. Within 30 days after the Effective Date of this Consent Decree, Costco shall pay
15 the sum of \$335,000 as a civil penalty, together with interest accruing from the date on which the
16 Consent Decree is lodged with the Court, at the rate specified in 28 U.S.C. § 1961 as of the date
17 of lodging.

18 10. Costco shall pay the civil penalty due at <https://www.pay.gov> to the U.S.
19 Department of Justice account, in accordance with instructions provided to Defendant by the
20 Financial Litigation Unit (“FLU”) of the United States Attorney’s Office for the Northern
21 District of California within 10 days after the Effective Date. The payment instructions provided
22 by the FLU shall include a Consolidated Debt Collection System (“CDCS”) number, which
23 Costco shall use to identify all payments required to be made in accordance with this Consent
24 Decree. The FLU will provide the payment instructions to:

25 Costco Wholesale Corporation
26 c/o Rue Jenkins
27 999 Lake Drive
28 Issaquah, WA 98027
 (425) 313-6124
 rjenkins@costco.com

on behalf of Costco. Costco may change the individual to receive payment instructions on their behalf by providing written notice of such change to the United States in accordance with Section XV (Notices). At the time of payment, Costco shall send notice that payment has been made: (i) to EPA via email at acctsreceivable.cinwd@epa.gov or via regular mail at EPA Cincinnati Finance Office, 26 Martin Luther King Drive, Cincinnati, OH 45268; and (ii) to the United States via email or regular mail in accordance with Section XV. Such notice shall reference the CDCS Number and DOJ case number 90-5-2-1-09643.

11. Costco shall not deduct any penalties paid under this Decree pursuant to this Section or Section IX (Stipulated Penalties) in calculating its federal income tax.

VI. COMPLIANCE REQUIREMENTS

A. Refrigerant Compliance Management Plan

12. Starting no later than 30 days after the Effective Date, Costco shall implement the Refrigerant Compliance Management Plan.

13. Prior to implementing any amendments or changes to its Refrigerant Compliance Management Plan, Costco shall submit a revised Refrigerant Compliance Management Plan to EPA along with a letter identifying the amendments or changes. Costco shall implement its amended or changed Refrigerant Compliance Management Plan unless and until EPA notifies Costco in writing that it declines to approve such amendments or changes and provides written comments. Within 30 days of receiving EPA's written notification, Costco shall either (i) revise the Refrigerant Compliance Management Plan consistent with EPA's written comments and submit the revised Refrigerant Compliance Management Plan to EPA, or (ii) invoke Dispute Resolution under Section XI of this Consent Decree.

B. Corporate-Wide Leak Rate Reductions

14. Costco shall achieve a Corporate-Wide Average Leak Rate that is at or below:

a. 22.3% percent for the first calendar year after the year of the Effective Date;

b. 20.7% percent for the second calendar year after the year of the Effective Date; and

1 c. 19.1% percent for the third calendar year after the year of the Effective
2 Date.

3 15. If Costco fails to achieve a Corporate-Wide Average Leak Rate set forth in
4 Paragraph 14(a) or (b) for the calendar year specified in that Paragraph, Costco shall take the
5 following actions:

6 a. Costco shall pay a stipulated penalty pursuant to Section IX of this
7 Consent Decree.

8 b. By March 1 of the year after the calendar year for which Costco failed to
9 achieve the Corporate-Wide Average Leak Rate set forth in Paragraph 14, Costco shall submit to
10 EPA a proposed Corrective Action Plan and shall implement the proposed Corrective Action
11 Plan in accordance with the schedule set forth therein. The proposed Corrective Action Plan
12 shall include (i) a description of all actions taken or to be taken to seek to ensure that Costco
13 achieves the Corporate-Wide Average Leak Rate set forth in Paragraph 14 for the year after the
14 calendar year for which Costco failed to achieve the required Corporate-Wide Average Leak
15 Rate; and (ii) with respect to actions not already completed, the schedule for their
16 implementation.

17 c. If EPA provides written comments on the proposed Corrective Action
18 Plan, Costco shall, within 30 days of receiving EPA's written comments, either (i) revise the
19 Corrective Action Plan consistent with EPA's written comments, submit the revised Corrective
20 Action Plan to EPA, and implement the revised Corrective Action Plan, or (ii) invoke Dispute
21 Resolution under Section XI of this Consent Decree.

22 16. If Costco fails to achieve the Corporate-Wide Average Leak Rate set forth in
23 Paragraph 14(c) for the third calendar year after the year of the Effective Date, Costco shall take
24 the following actions:

25 a. Costco shall pay a stipulated penalty pursuant to Section IX of this
26 Consent Decree.

27 b. By March 1 of the fourth calendar year after the year of the Effective
28 Date, Costco shall submit to EPA a proposed Corrective Action Plan and shall implement the

proposed Corrective Action Plan in accordance with the schedule set forth therein. The proposed Corrective Action Plan shall include (i) a description of all actions taken or to be taken to seek to ensure that Costco achieves a Corporate-Wide Average Leak Rate that is at or below 19.1% for the fourth calendar year after the year of the Effective Date; and (ii) with respect to actions not already completed, the schedule for their implementation.

c. Costco shall achieve a Corporate-Wide Average Leak Rate that is at or below 19.1% for the fourth calendar year after the year of the Effective Date.

17. If Costco is required, pursuant to Paragraph 16(c), to achieve a Corporate-Wide Average Leak Rate that is at or below 19.1% for the fourth calendar year after the year of the Effective Date, and Costco fails to achieve such Corporate-Wide Average Leak Rate, Costco shall take the following actions:

a. Costco shall pay a stipulated penalty pursuant to Section IX of this Consent Decree.

b. By March 1 of the fifth calendar year after the year of the Effective Date, Costco shall submit to EPA a written report that provides a detailed explanation of the cause(s) of such failure.

C. Retrofit or Replacement of Covered Appliances at Existing Warehouses

18. By the end of the third calendar year after the year of the Effective Date, at no fewer than 30 Warehouses, Costco shall either retrofit all Covered Appliances to use Non-ODS Refrigerant with a Global Warming Potential no greater than that of the refrigerant R-407F or replace all Covered Appliances with new commercial refrigeration appliances that use Non-ODS Refrigerant with a Global Warming Potential no greater than that of the refrigerant R-407F, pursuant to the following deadlines:

<u>Deadline</u>	<u>Cumulative Number of Warehouses Addressed</u>
End of first calendar year after year of Effective Date	10
End of second calendar year after year of Effective Date	20
End of third calendar year after year of Effective Date	30

Costco shall have sole discretion to select the Warehouses at which Covered Appliances will be retrofitted or replaced and to elect retrofit or replacement for each such Warehouse. In selecting the Warehouses at which Covered Appliances will be retrofitted or replaced, Costco shall consider, *inter alia*, the Warehouses' history of Refrigerant leaks and potential for future Refrigerant leaks absent the retrofit or replacement. Warehouses at which Costco has retrofitted or replaced all Covered Appliances between January 1, 2013, and the Effective Date of this Consent Decree shall count towards Costco's compliance with the requirements of this Paragraph.

D. New Warehouses

19. Glycol Secondary Loop Refrigeration Systems. Costco shall install a Glycol Secondary Loop Refrigeration System for all medium-temperature Covered Appliances at all one-story Warehouses opened during the three calendar years after the year of the Effective Date. Costco may satisfy this requirement at any Warehouse by installing an alternative refrigeration system that will use no more Refrigerant than a Glycol Secondary Loop Refrigeration System would use at that Warehouse. No less than 30 days prior to commencing construction on any Warehouse at which Costco will install such an alternative refrigeration system, Costco shall provide written notice to EPA that includes supporting information demonstrating that the proposed alternative refrigeration system will use no more Refrigerant than a Glycol Secondary Loop Refrigeration System would use at that Warehouse.

20. Centrally Monitored Refrigerant Leak Detection Systems. Costco shall install Centrally Monitored Refrigerant Leak Detection Systems according to the manufacturer's specifications at all Warehouses opened during the three calendar years after the year of the Effective Date.

VII. PARTICIPATION IN RECOGNITION PROGRAMS

21. Costco shall not seek warehouse certification from, or partnership in, any federal or state recognition program relating to ozone-depleting substances, including EPA's GreenChill Advanced Refrigeration Partnership, until termination of this Consent Decree. This Paragraph shall not be construed to prohibit Costco's exchange of data or information with or through any

1 such recognition program.

2 22. Costco shall not at any time use or rely on measures taken in order to comply with
3 the obligations of Section VI of this Consent Decree, or on any reduction in its Corporate-Wide
4 Average Leak Rate achieved pursuant to this Consent Decree, as the basis for participation in
5 any federal or state recognition program.

6 VIII. REPORTING REQUIREMENTS

7 23. No later than March 1 of each year after the year of the Effective Date, Costco
8 shall submit to the United States a Compliance Report that includes the following information
9 for the prior calendar year:

- 10 a. a list of all Warehouse openings and closings;
- 11 b. a description of Costco's retrofit or replacement of Covered Appliances at
12 Warehouses pursuant to Paragraph 18 of this Consent Decree, including a description of the
13 Warehouses' history (over the prior calendar year) of Refrigerant leaks and potential for future
14 Refrigerant leaks absent the retrofit or replacement;
- 15 c. a description of all refrigeration systems and leak detection systems
16 installed at each Warehouse that opened;
- 17 d. the Full Charge, in pounds, of each Covered Appliance at each
18 Warehouse;
- 19 e. the number of pounds of Refrigerant added to each Covered Appliance at
20 each Warehouse;
- 21 f. the Corporate-Wide Average Leak Rate;
- 22 g. the total number of pounds of Refrigerant added to all Covered Appliances
23 at all Warehouses;
- 24 h. a certification that Costco has complied with the Refrigerant Compliance
25 Management Plan during the prior calendar year, or a description of all incidences of
26 noncompliance with the Refrigerant Compliance Management Plan during the prior calendar
27 year and a certification that Costco has otherwise complied with the Refrigerant Compliance
28 Management Plan; and

i. an affirmative statement regarding Costco's compliance or noncompliance with 40 C.F.R. Part 82, Subpart F, at the Warehouses during the prior calendar year.

24. Data in each Compliance Report submitted by Costco under this Section shall be in Microsoft Excel or equivalent spreadsheet form. In addition to submitting each Compliance Report to the United States in accordance with the requirements of Section XV of this Consent Decree, Costco shall submit each Compliance Report to EPA in electronic form.

25. Each Compliance Report submitted by Costco under this Section shall be signed by a Costco official and shall include the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

26. Whenever any violation of this Consent Decree or any other event affecting Costco's performance under this Decree, or the performance of its Warehouses, may pose an immediate threat to the public health or welfare or the environment, Costco shall notify EPA orally or by electronic or facsimile transmission as soon as possible, but no later than 24 hours after Costco first knew of the violation or event. This procedure is in addition to the requirements set forth in Paragraphs 23 through 25.

27. The reporting requirements of this Consent Decree do not relieve Costco of any reporting obligations required by the Clean Air Act or implementing regulations, or by any other federal, state, or local law, regulation, permit, or other requirement.

28. Any information provided pursuant to this Consent Decree may be used by the United States in any proceeding to enforce the provisions of this Consent Decree and as otherwise permitted by law.

IX. STIPULATED PENALTIES

29. Costco shall be liable for stipulated penalties to the United States for violations of

1 this Consent Decree as specified below, unless excused under Section X (Force Majeure).

2 30. Late Payment of Civil Penalty. If Costco fails to pay the civil penalty required to
3 be paid under Section V of this Decree (Civil Penalty) when due, Costco shall pay a stipulated
4 penalty of \$2,500 per day for each day that the payment is late.

5 31. Refrigerant Compliance Management Plan. For each failure to implement the
6 Refrigerant Compliance Management Plan at a Warehouse as required by Paragraph 12, Costco
7 shall pay a stipulated penalty of \$500 per violation per Warehouse per day.

8 32. Corporate-Wide Average Leak Rates

9 a. If Costco fails to achieve a Corporate-Wide Average Leak Rate that is at
10 or below the required Corporate-Wide Average Leak Rate for a calendar year as set forth in
11 Paragraph 14, Costco shall pay stipulated penalties as follows:

12 First calendar year (Paragraph 14(a)): \$50,000

13 Second calendar year (Paragraph 14(b)): \$100,000

14 Third calendar year (Paragraph 14(c)): \$150,000

15 b. If Costco fails to achieve the Corporate-Wide Average Leak Rate set forth
16 in Paragraph 14(c) for the third calendar year after the year of the Effective Date and then fails to
17 achieve a Corporate-Wide Average Leak Rate that is at or below 19.1% for the fourth calendar
18 year after the year of the Effective Date pursuant to Paragraph 16(c), Costco shall pay a
19 stipulated penalty of \$150,000.

20 33. Retrofit or Replacement of Covered Appliances at Existing Warehouses. For
21 failure to complete retrofit or replacement of all Covered Appliances at existing Warehouses as
22 required by Paragraph 18, Costco shall pay a stipulated penalty of \$2,000 per Warehouse per day
23 until such retrofit or replacement is completed.

24 34. New Warehouses

25 a. For each failure to install a Glycol Secondary Loop Refrigeration System
26 at a new Warehouse, or alternative refrigeration system that will use no more Refrigerant than a
27 Glycol Secondary Loop Refrigeration System would use at that Warehouse, as required by
28 Paragraph 19, Costco shall pay a stipulated penalty of \$2,000 per Warehouse per day until such

1 installation is completed. Such penalty shall begin to accrue on the day after the date the
2 Warehouse opens to the public.

3 b. For each failure to install a Centrally Monitored Refrigerant Leak
4 Detection System at a new Warehouse as required by Paragraph 20, Costco shall pay a stipulated
5 penalty of \$2,000 per Warehouse per day until such installation is completed. Such penalty shall
6 begin to accrue on the day after the date the Warehouse opens to the public.

7 35. Reporting Requirements. For each failure to comply with the requirements of
8 Section VIII of this Consent Decree within the specified time schedules established by this
9 Decree, Costco shall pay a stipulated penalty of \$1,000 per violation per day.

10 36. Stipulated penalties under this Section shall begin to accrue on the day after
11 performance is due or on the day a violation occurs, whichever is applicable, and shall continue
12 to accrue until performance is satisfactorily completed or until the violation ceases. Stipulated
13 penalties shall accrue simultaneously for separate violations of this Consent Decree.

14 37. Costco shall pay any stipulated penalty within 30 days of receiving the United
15 States' written demand, except as provided in Paragraph 39 of this Consent Decree.

16 38. The United States may, in the unreviewable exercise of its discretion, reduce or
17 waive stipulated penalties otherwise due it under this Consent Decree.

18 39. Stipulated penalties shall continue to accrue as provided in Paragraph 36 during
19 any Dispute Resolution, but need not be paid until the following:

20 a. If the dispute is resolved by agreement or by a decision of EPA that is not
21 appealed to the Court, Costco shall pay accrued penalties determined to be owing, together with
22 interest, to the United States within 30 days of the effective date of the agreement or the receipt
23 of EPA's decision or order.

24 b. If the dispute is appealed to the Court and the United States prevails in
25 whole or in part, Costco shall pay all accrued penalties determined by the Court to be owing,
26 together with interest, within 60 days of receiving the Court's decision or order, except as
27 provided in subparagraph (c), below.

28 c. If any Party appeals the District Court's decision, Costco shall pay all

1 accrued penalties determined to be owing, together with interest, within 15 days of receiving the
2 final appellate court decision.

3 40. Costco shall pay stipulated penalties owing to the United States in the manner set
4 forth and with the confirmation notices required by Paragraph 10, except that the transmittal
5 letter shall state that the payment is for stipulated penalties and shall state for which violation(s)
6 the penalties are being paid.

7 41. If Costco fails to pay stipulated penalties according to the terms of this Consent
8 Decree, Costco shall be liable for interest on such penalties, as provided for in 28 U.S.C. § 1961,
9 accruing as of the date payment became due. Nothing in this Paragraph shall be construed to
10 limit the United States from seeking any remedy otherwise provided by law for Costco's failure
11 to pay any stipulated penalties.

12 42. Subject to the provisions of Section XIII of this Consent Decree (Effect of
13 Settlement/Reservation of Rights), the stipulated penalties provided for in this Decree shall be in
14 addition to any other rights, remedies, or sanctions available to the United States for Costco's
15 violation of this Decree or applicable law. Costco reserves its rights to contest any such
16 additional actions taken by the United States against Costco. Where a violation of this Consent
17 Decree is also a violation of Section 608 of the Act or 40 C.F.R. Part 82, Subpart F, Costco shall
18 be allowed a credit, for any stipulated penalties paid, against any statutory penalties imposed for
19 such violation.

20 X. FORCE MAJEURE

21 43. "Force majeure," for purposes of this Consent Decree, is defined as any event
22 arising from causes beyond the control of Costco, of any entity controlled by Costco, or of
23 Costco's contractors, that impedes – i.e., delays or prevents – the performance of any obligation
24 under this Consent Decree despite Costco's best efforts to fulfill the obligation. The requirement
25 that Costco exercise "best efforts to fulfill the obligation" includes using best efforts to anticipate
26 any potential force majeure event and best efforts to address the effects of any such event (a) as it
27 is occurring and (b) after it has occurred to seek to prevent or minimize any resulting impedance
28 to the greatest extent possible. "Force Majeure" does not include Costco's financial inability to

1 perform any obligation under this Consent Decree.

2 44. If any event occurs or has occurred that may impede the performance of any
3 obligation under this Consent Decree, whether or not caused by a force majeure event, Costco
4 shall provide notice orally or by electronic or facsimile transmission to EPA, within seven days
5 of when Costco first knew that the event might cause an impedance. Within 30 days thereafter,
6 Costco shall provide in writing to EPA an explanation and description of the reasons for the
7 impedance; the anticipated duration of the impedance; all actions taken or to be taken to prevent
8 or minimize the impedance; a schedule for implementation of any measures to be taken to
9 prevent or mitigate the impedance or the effect of the impedance; Costco's rationale for
10 attributing such impedance to a force majeure event if it intends to assert such a claim; and a
11 statement as to whether, in the opinion of Costco, such event may cause or contribute to an
12 endangerment to public health, welfare or the environment. Costco shall include with any notice
13 all available documentation supporting the claim that the impedance was attributable to a force
14 majeure. Failure to comply with the above requirements shall preclude Costco from asserting
15 any claim of force majeure for that event for the period of time of such failure to comply, and for
16 any additional impedance caused by such failure. Costco shall be deemed to know of any
17 circumstance of which Costco, any entity controlled by Costco, or Costco's contractors knew or
18 should have known.

19 45. If EPA agrees that the impedance or anticipated impedance is attributable to a
20 force majeure event, EPA will extend the time for performance of the obligations under this
21 Consent Decree that are affected by the force majeure event for such time as is necessary to
22 complete those obligations and/or reduce or waive stipulated penalties otherwise due under this
23 Decree as a result of Costco's failure to perform such obligations. An extension of the time for
24 performance of the obligations affected by the force majeure event shall not, of itself, extend the
25 time for performance of any other obligation. EPA will notify Costco in writing of its decision,
26 including the length of any extension for performance of the obligations affected by the force
27 majeure event.

28 46. If EPA does not agree that the impedance or anticipated impedance has been or

1 will be caused by a force majeure event, EPA will notify Costco in writing of its decision.

2 47. If Costco elects to invoke the dispute resolution procedures set forth in Section XI
3 (Dispute Resolution), it shall do so no later than 15 days after receipt of EPA's notice. In any
4 such proceeding, Costco shall have the burden of demonstrating by a preponderance of the
5 evidence that the impedance or anticipated impedance has been or will be caused by a force
6 majeure event, that the duration of the impedance or the relief sought was or will be warranted
7 under the circumstances, that best efforts were exercised to avoid and mitigate the effects of the
8 impedance, and that Costco complied with the requirements of Paragraphs 43 and 44, above. If
9 Costco carries this burden, the impedance at issue shall be deemed not to be a violation by
10 Costco of the affected obligation of this Consent Decree identified to EPA and the Court.

11 XI. DISPUTE RESOLUTION

12 48. Unless otherwise expressly provided for in this Consent Decree, the dispute
13 resolution procedures of this Section shall be the exclusive mechanism to resolve disputes arising
14 under or with respect to this Consent Decree. Costco's failure to seek resolution of a dispute
15 under this Section shall preclude Costco from raising any such issue as a defense to an action by
16 the United States to enforce any obligation of Costco arising under this Decree.

17 49. Informal Dispute Resolution. Any dispute subject to Dispute Resolution under
18 this Consent Decree shall first be the subject of informal negotiations. The dispute shall be
19 considered to have arisen when Costco sends the United States a written Notice of Dispute.
20 Such Notice of Dispute shall state clearly the matter in dispute. The period of informal
21 negotiations shall not exceed 20 days from the date the dispute arises, unless that period is
22 modified by written agreement. If the Parties cannot resolve a dispute by informal negotiations,
23 then the position advanced by the United States shall be considered binding unless, within 20
24 days after the conclusion of the informal negotiation period, Costco invokes formal dispute
25 resolution procedures as set forth below.

26 50. Formal Dispute Resolution. Costco shall invoke formal dispute resolution
27 procedures, within the time period provided in the preceding Paragraph, by serving on the United
28 States a written Statement of Position regarding the matter in dispute. The Statement of Position

1 shall include, but need not be limited to, any factual data, analysis, or opinion supporting
2 Costco's position and any supporting documentation relied upon by Costco.

3 51. The United States shall serve its Statement of Position within 45 days of receipt of
4 Costco's Statement of Position. The United States' Statement of Position shall include, but need
5 not be limited to, any factual data, analysis, or opinion supporting that position and any
6 supporting documentation relied upon by the United States. The position advanced by the
7 United States shall be binding on Costco, unless Costco files a motion for judicial review of the
8 dispute in accordance with the following Paragraph.

9 52. Costco may seek judicial review of the dispute by filing with the Court and
10 serving on the United States, in accordance with Section XV of this Consent Decree (Notices), a
11 motion requesting judicial resolution of the dispute. The motion must be filed within 10 days of
12 receipt of the United States' Statement of Position pursuant to the preceding Paragraph. The
13 motion shall contain a written statement of Costco's position on the matter in dispute, including
14 any supporting factual data, analysis, opinion, or documentation, and shall set forth the relief
15 requested and any schedule within which the dispute must be resolved for orderly
16 implementation of the Consent Decree.

17 53. The United States shall respond to Costco's motion within the time period
18 allowed by the Local Rules of this Court. Costco may file a reply memorandum, to the extent
19 permitted by the Local Rules.

20 54. Standard of Review. Except as otherwise provided in this Consent Decree, in any
21 dispute brought under Paragraph 50, Costco shall bear the burden of demonstrating that its
22 position complies with this Consent Decree and that it is entitled to relief under applicable
23 principles of law. In their initial filings with the Court under Paragraphs 52 and 53, the Parties
24 shall state their respective positions as to the applicable standard of law for resolving the dispute.

25 55. The invocation of dispute resolution procedures under this Section shall not, by
26 itself, extend, postpone, or affect in any way any obligation of Costco under this Consent Decree,
27 unless and until final resolution of the dispute so provides. Stipulated penalties with respect to
28 the disputed matter shall continue to accrue from the first day of noncompliance, but payment

1 shall be stayed pending resolution of the dispute as provided in Paragraph 39. If Costco does not
 2 prevail on the disputed issue, stipulated penalties shall be assessed and paid as provided in
 3 Section IX (Stipulated Penalties).

4 XII. INFORMATION COLLECTION AND RETENTION

5 56. The United States and its representatives, including attorneys, contractors, and
 6 consultants, shall have the right of entry into any Warehouse covered by this Consent Decree, at
 7 all reasonable times, upon presentation of credentials, to:

- 8 a. monitor the progress of activities required under this Consent Decree;
- 9 b. verify any data or information submitted to the United States in
 10 accordance with the terms of this Consent Decree;
- 11 c. obtain documentary evidence, including photographs and similar data; and
- 12 d. assess Costco's compliance with this Consent Decree.

13 57. Until three years after the termination of this Consent Decree, Costco shall retain,
 14 and shall instruct its contractors and agents to preserve, all non-identical copies of all documents,
 15 records, or other information (including documents, records, or other information in electronic
 16 form) in its or its contractors' or agents' possession or control, or that come into its or its
 17 contractors' or agents' possession or control, necessary to demonstrate Costco's performance of
 18 its obligations under this Consent Decree. This information-retention requirement shall apply
 19 regardless of any contrary corporate or institutional policies or procedures. At any time during
 20 this information-retention period, upon written request by the United States, Costco shall within
 21 30 days provide copies of any documents, records, or other information required to be
 22 maintained under this Paragraph.

23 58. At the conclusion of the information-retention period provided in the preceding
 24 Paragraph, Costco shall notify the United States at least 90 days prior to the destruction of any
 25 documents, records, or other information subject to the requirements of the preceding Paragraph
 26 and, upon written request by the United States, Costco shall within 30 days deliver any such non-
 27 privileged documents, records, or other information to EPA. Costco may assert that certain
 28 documents, records, or other information is privileged under the attorney-client privilege or any

1 other privilege recognized by federal law. If Costco asserts such a privilege, it shall provide the
 2 following: (1) the title of the document, record, or information; (2) the date of the document,
 3 record, or information; (3) the name and title of each author of the document, record, or
 4 information; (4) the name and title of each addressee and recipient; (5) a description of the
 5 subject of the document, record, or information; and (6) the privilege asserted by Costco.
 6 However, no documents, records, or other information created or generated pursuant to the
 7 requirements of this Consent Decree shall be withheld on grounds of privilege.

8 59. Costco may also assert that information required to be maintained or provided to
 9 the United States under this Consent Decree is protected as Confidential Business Information
 10 ("CBI") under 40 C.F.R. Part 2. As to any information that Costco seeks to protect as CBI,
 11 Costco shall follow the procedures set forth in 40 C.F.R. Part 2.

12 60. This Consent Decree in no way limits or affects any right of entry and inspection,
 13 or any right to obtain information, held by the United States pursuant to applicable federal laws,
 14 regulations, or permits, nor does it limit or affect any duty or obligation of Costco to maintain
 15 documents, records, or other information imposed by applicable federal or state laws,
 16 regulations, or permits.

17 XIII. EFFECT OF SETTLEMENT/RESERVATION OF RIGHTS

18 61. This Consent Decree resolves the civil claims of the United States against Costco
 19 for any violations of 40 C.F.R. §§ 82.156(i), 82.166(k), or 82.166(m) at the Warehouses arising
 20 out of facts and events that occurred prior to the date of lodging, including the civil claims of the
 21 United States for the violations alleged in the Complaint through the date of lodging.

22 62. The United States reserves all legal and equitable remedies available to enforce
 23 the provisions of this Consent Decree, except as expressly stated in Paragraph 61. This Consent
 24 Decree shall not be construed to limit the rights of the United States to obtain penalties or
 25 injunctive relief under the Act or implementing regulations, or under other federal laws,
 26 regulations, or permit conditions, except as expressly specified in Paragraph 61.

27 63. In any subsequent administrative or judicial proceeding initiated by the United
 28 States for injunctive relief, civil penalties, or other appropriate relief relating to the Warehouses,

Costco shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the United States in the subsequent proceeding were or should have been brought in the instant case, except with respect to claims that have been specifically resolved pursuant to Paragraph 61.

64. This Consent Decree is not a permit, or a modification of any permit, under any federal, state, or local laws or regulations. Costco is responsible for achieving and maintaining complete compliance with all applicable federal, state, and local laws, regulations, and permits; and Costco's compliance with this Consent Decree shall be no defense to any action commenced pursuant to any such laws, regulations, or permits, except as set forth herein. The United States does not, by its consent to the entry of this Consent Decree, warrant or aver in any manner that Costco's compliance with any aspect of this Consent Decree will result in compliance with provisions of the Act, 42 U.S.C. § 7401 et seq., or with any other provisions of federal, state, or local laws, regulations, or permits.

65. This Consent Decree does not limit or affect the rights of Costco or of the United States against any third parties, not party to this Consent Decree, nor does it limit the rights of third parties, not party to this Consent Decree, against Costco, except as otherwise provided by law.

66. This Consent Decree shall not be construed to create rights in, or grant any cause of action to, any third party not party to this Consent Decree.

XIV. COSTS

67. The Parties shall bear their own costs of this action, including attorney's fees, except that the United States shall be entitled to collect the costs (including attorney's fees) incurred in any action necessary to collect any portion of the civil penalty or any stipulated penalties due but not paid by Costco.

XV. NOTICES

68. Unless otherwise specified herein, whenever notifications, submissions, or communications are required by this Consent Decree, they shall be made in writing and

1 addressed as follows:

2 To the United States:

3 Chief, Environmental Enforcement Section
4 Environment and Natural Resources Division
5 U.S. Department of Justice
6 P.O. Box 7611 Ben Franklin Station
7 Washington, DC 20044-7611
8 eescdcopy.enrd@usdoj.gov
9 Re: DOJ No. 90-5-2-1-09643

10 and

11 Brian Riedel (Riedel.Brian@epa.gov)
12 Andrew Chew (Chew.Andrew@epa.gov)
13 U.S. Environmental Protection Agency
14 Region IX
15 75 Hawthorne Street
16 San Francisco, CA 94105

17 To EPA:

18 Brian Riedel (Riedel.Brian@epa.gov)
19 Andrew Chew (Chew.Andrew@epa.gov)
20 U.S. Environmental Protection Agency
21 Region IX
22 75 Hawthorne Street
23 San Francisco, CA 94105

24 To Costco:

25 General Counsel
26 Legal Department
27 Costco Wholesale Corporation
28 999 Lake Drive
Issaquah, WA 98027

and

Mark Schneider (MWSchneider@perkinscoie.com)
Chris Baird (JCBaird@perkinscoie.com)
Perkins Coie LLP
1201 Third Ave., Suite 4800
Seattle, WA 98101

69. Any Party may, by written notice to the other Parties, change its designated notice

1 recipient or notice address provided above.

2 70. Notices submitted pursuant to this Section shall be deemed submitted upon
3 mailing or electronic mailing, as applicable, unless otherwise provided in this Consent Decree or
4 by mutual agreement of the Parties in writing.

5 XVI. EFFECTIVE DATE

6 71. The Effective Date of this Consent Decree shall be the date upon which this
7 Decree is entered by the Court or a motion to enter the Decree is granted, whichever occurs first,
8 as recorded on the Court's docket.

9 XVII. RETENTION OF JURISDICTION

10 72. The Court shall retain jurisdiction over this case until termination of this Consent
11 Decree, for the purpose of resolving disputes arising under this Decree or entering orders
12 modifying this Decree, pursuant to Sections XI and XVIII, or effectuating or enforcing
13 compliance with the terms of this Decree.

14 XVIII. MODIFICATION

15 73. The terms of this Consent Decree, including any attached appendices, may be
16 modified only by a subsequent written agreement signed by the Parties. Where the modification
17 constitutes a material change to this Decree, it shall be effective only upon approval by the
18 Court.

19 74. Any disputes concerning modification of this Decree shall be resolved pursuant to
20 Section XI of this Decree (Dispute Resolution), provided, however, that, instead of the burden of
21 proof provided by Paragraph 54, the Party seeking the modification bears the burden of
22 demonstrating that it is entitled to the requested modification in accordance with Federal Rule of
23 Civil Procedure 60(b).

24 XIX. TERMINATION

25 75. After Costco has completed the requirements of Sections VI.A and VI.B of this
26 Consent Decree, has complied with all other requirements of this Decree, and has paid the civil
27 penalty and any accrued stipulated penalties as required by this Decree, Costco may serve upon
28 the United States a Request for Termination, stating that Costco has satisfied those requirements,

1 together with all necessary supporting documentation.

2 76. Following receipt by the United States of Costco's Request for Termination, the
3 Parties shall confer informally concerning the Request and any disagreement that the Parties may
4 have as to whether Costco has satisfactorily complied with the requirements for termination of
5 this Consent Decree. If the United States agrees that the Consent Decree may be terminated, the
6 Parties shall submit, for the Court's approval, a joint stipulation terminating the Decree.

7 77. If the United States does not agree that the Consent Decree may be terminated,
8 Costco may invoke Dispute Resolution under Section XI of this Decree. However, Costco shall
9 not seek Dispute Resolution of any dispute regarding termination, under Paragraph 50 of Section
10 XI, until 60 days after service of its Request for Termination.

11 XX. PUBLIC PARTICIPATION

12 78. This Consent Decree shall be lodged with the Court for a period of not less than
13 30 days for public notice and comment in accordance with 28 C.F.R. § 50.7. The United States
14 reserves the right to withdraw or withhold its consent if the comments regarding the Consent
15 Decree disclose facts or considerations indicating that the Consent Decree is inappropriate,
16 improper, or inadequate. Costco consents to entry of this Consent Decree without further notice
17 and agrees not to withdraw from or oppose entry of this Consent Decree by the Court or to
18 challenge any provision of the Decree, unless the United States has notified Costco in writing
19 that it no longer supports entry of the Decree.

20 XXI. SIGNATORIES/SERVICE

21 79. Each undersigned representative of Costco and the Assistant Attorney General for
22 the Environment and Natural Resources Division of the Department of Justice certifies that he or
23 she is fully authorized to enter into the terms and conditions of this Consent Decree and to
24 execute and legally bind the Party he or she represents to this document.

25 80. This Consent Decree may be signed in counterparts, and its validity shall not be
26 challenged on that basis. Costco agrees to accept service of process by mail with respect to all
27 matters arising under or relating to this Consent Decree and to waive the formal service
28 requirements set forth in Rules 4 and 5 of the Federal Rules of Civil Procedure and any

1 applicable Local Rules of this Court including, but not limited to, service of a summons.

2 **XXII. INTEGRATION**

3 81. This Consent Decree constitutes the final, complete, and exclusive agreement and
 4 understanding among the Parties with respect to the settlement embodied in the Decree and
 5 supersedes all prior agreements and understandings, whether oral or written, concerning the
 6 settlement embodied herein. Other than deliverables that are subsequently submitted and
 7 approved pursuant to this Consent Decree, no other document, nor any representation,
 8 inducement, agreement, understanding, or promise, constitutes any part of this Decree or the
 9 settlement it represents, nor shall it be used in construing the terms of this Decree.

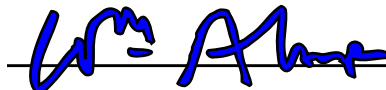
10 **XXIII. FINAL JUDGMENT**

11 82. Upon approval and entry of this Consent Decree by the Court, this Consent
 12 Decree shall constitute a final judgment of the Court as to the United States and Costco.

13 **XXIV. APPENDICES**

14 83. The following appendices are attached to and part of this Consent Decree:
 15 "Appendix A" is the list of Warehouses as of the date of lodging of the Consent Decree.
 16 "Appendix B" is the Refrigerant Compliance Management Plan.

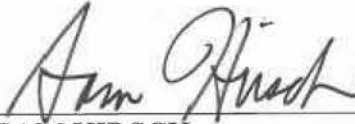
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 18
 19 Dated and entered this 5 day of November, 2014.

20
 21
 22 

23 United States District Judge
 24 Northern District of California
 25
 26
 27
 28

1 THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v.
2 Costco Wholesale Corporation (N.D. Cal.):

3 FOR PLAINTIFF UNITED STATES OF AMERICA:

4
5 

6 SAM HIRSCH
7 Acting Assistant Attorney General
8 Environment and Natural Resources Division
9


10 

11 MARK SABATH
12 Senior Attorney
13 Environmental Enforcement Section
14 Environment and Natural Resources Division
15 U.S. Department of Justice
16 P.O. Box 7611
17 Washington, DC 20044-7611
18 (202) 514-1196
19
20
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28

1 THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v.
2 Costco Wholesale Corporation (N.D. Cal.);

3 FOR PLAINTIFF UNITED STATES OF AMERICA:

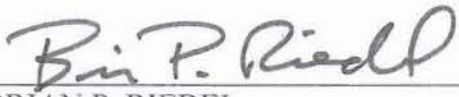
4
5 
6 SUSAN SHINKMAN, Director
7 Office of Civil Enforcement
8 Office of Enforcement and Compliance Assurance
9 U.S. Environmental Protection Agency
10 1200 Pennsylvania Ave., N.W.
11 Washington, D.C. 20460

12 
13 PHILLIP BROOKS
14 Director, Air Enforcement Division
15 Office of Civil Enforcement
16 Office of Enforcement and Compliance Assurance
17 U.S. Environmental Protection Agency
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28

1 THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v.
2 Costco Wholesale Corporation (N.D. Cal.):

3 FOR PLAINTIFF UNITED STATES OF AMERICA:

4
5 
6 _____
7 JARED BLUMENFELD
8 Regional Administrator
9 U.S. Environmental Protection Agency, Region IX
10 75 Hawthorne Street
11 San Francisco, CA 94105

12 
13 _____
14 BRIAN P. RIEDEL
15 Assistant Regional Counsel
16 U.S. Environmental Protection Agency, Region IX
17
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2
3 THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v.
4 Costco Wholesale Corporation (N.D. Cal.):

5 FOR DEFENDANT COSTCO WHOLESALE CORPORATION:

6
7 
8 Franz Lazarus
9 *Executive Vice President*

10
11 Agent authorized to accept service on behalf of above-signed party:

12
13
14 John Sullivan
15 *Costco Wholesale Corporation*
16 *999 Lake Drive*
17 *Issaquah, WA 98027*
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APPENDIX A

Warehouse No.	Address	City	State
1	4401 4th Ave South	Seattle	WA
6	400 Costco Dr Suite 150	Tukwila	WA
8	8629 120th Ave NE	Kirkland	WA
9	15901 SE Jenkins Rd	Aloha	OR
10	330 W Dimond Blvd	Anchorage	AK
13	10000 Mickelberry Rd NW	Silverdale	WA
17	2828 Chad Dr	Eugene	OR
19	4299 Guide Meridian St	Bellingham	WA
21	3150 Fostoria Way	Danville	CA
24	1335 S Bradley	Santa Maria	CA
25	2200 Harvard Way	Reno	NV
28	27972 Cabot Rd	Laguna Niguel	CA
38	1616 East Hammer Ln	Stockton	CA
44	21300 Roscoe Blvd	Canoga Park	CA
61	35100 Enchanted Pkwy S	Federal Way	WA
63	4125 Debarr Rd	Anchorage	AK
64	5500 Littlerock Rd SE	Tumwater	WA
65	3639 Crater Lake Hwy	Medford	OR
66	7619 N Division St	Spokane	WA
67	3220 North Reserve St	Missoula	MT
68	1010 Hawthorne	Salem	OR
69	2290 King Ave W	Billings	MT
88	1800 W Sample Rd	Pompano Beach	FL
92	8300 Park Blvd	Doral	FL
93	3250 Northlake Blvd	Lake Park	FL
95	2219 SO 37th St	Tacoma	WA
96	2505 Catron St	Bozeman	MT
97	13130 SE 84th Ave	Clackamas	OR
101	2500 NE Hwy 20	Bend	OR
103	301 5th St	Clarkston	WA
106	1175 North 205th St	Seattle	WA
107	5225 Commercial Blvd	Juneau	AK
110	1801 10th Ave NW	Issaquah	WA
111	7850 SE Dartmouth	Tigard	OR
112	375 Highline Dr	East Wenatchee	WA
114	10200 19th Ave SE	Everett	WA
115	19105 Hwy 99	Lynnwood	WA
116	1420 Renaissance Blvd NE	Albuquerque	NM
117	5700 Lindero Canyon Rd	Westlake Villate	CA
119	540 Haleakala Hwy	Kahului	HI
122	2655 El Camino Real	Tustin	CA

Warehouse No.	Address	City	State
124	1755 Hacienda Dr	Vista	CA
125	1006 West Wabash Ave	Eureka	CA
126/20	11000 Garden Grove Blvd	Garden Grove	CA
127	700 Old Clear Creek Rd	Carson City	NV
128	2660 Park Center Dr	Simi Valley	CA
130	2901 Los Feliz Blvd	Los Angeles	CA
135	380 W Ashlan Ave	Clovis	CA
140	73-5600 Maiau St	Kailua-Kona	HI
143	1000 N Rengstorff	Mountain View	CA
144	450 10th St	San Francisco	CA
145	731 Pole Line Rd	Twin Falls	ID
149	220 Sylvania Ave	Santa Cruz	CA
182	14585 Biscayne Blvd	N Miami Beach	FL
183	741 Orange Ave	Altamonte Springs	FL
184	2101 Waterbridge Blvd	Orlando	FL
185	3333 University Blvd	Winter Park	FL
187/350	3980 Venture Dr	Duluth	GA
188	6350 Peachtree Dunwoody Rd NE	Atlanta	GA
189	645 Barrett Pkwy NW	Kennesaw	GA
202	850 Glenrock Rd	Norfolk	VA
203	575 E Ordnance Rd	Glen Burnie	MD
204	4725 West Ox Rd	Fairfax	VA
205	9650 West Broad St	Glen Allen	VA
206	3000 Middle Country Rd	Nesconset	NY
213	880 Russell Ave	Gaithersburg	MD
214	10925 Baltimore Ave	Beltsville	MD
218	21398 Price Cascades Plaza	Sterling	VA
221	77 Willowbrook Blvd	Wayne	NJ
222	2835 Route 35 N	Hazlet	NJ
225	10701 Sudley Manor Dr	Manassas	VA
226	1250 Old Country Rd	Westbury	NY
227	7373 Boston Blvd	Springfield	VA
230	125 Beacon Dr	Holbrook	NY
231	80 South River St	Hackensack	NJ
233	1200 S Fern St	Arlington	VA
237	625 Broadhollow Rd	Melville	NY
238	1830 Reservoir St	Harrisonburg	VA
239	251 Front Royal Pike	Winchester	VA
240	10 Garret Place	Commack	NY
241	1 Industrial Ln	New Rochelle	NY
243	32-50 Vernon Blvd	Long Island	NY

Warehouse No.	Address	City	State
244	156 State Route #10 West	East Hanover	NJ
247	12121 Jefferson Ave	Newport News	VA
248	740 Upper State Rd	North Wales	PA
249	1510 N Pointe Dr	Durham	NC
301	11 Newbury St	Danvers	MA
302	119 Daggett Dr	West Springfield	MA
303	120 Stockwell Dr	Avon	MA
304	200 Federal Rd	Brookfield	CT
305	50 Overlook Blvd	Nanuet	NY
306	20 Bridewell Place	Clifton	NJ
307	311 Daniel Webster Hwy	Nashua	NH
308	71 2nd Ave	Waltham	MA
310	605 Rockaway Tpke	Lawrence	NY
312	1718 Boston Post Rd	Milford	CT
313	3600 E Main St	Waterbury	CT
314	218 Lower Mountain View	Colchester	VT
315	315 Route 15 N	Wharton	NJ
316	2975 Richmond Ave	Staten Island	NY
317	1875 Hempstead Rd	Lancaster	PA
319	200 Legacy Blvd	Dedham	MA
320	1055 Hudson St	Union	NJ
321	20 Stew Leonard Dr	Yonkers	NY
322	325 Promenade Blvd	Bridgewater	NJ
323	205 Vineyard Rd	Edison	NJ
324	779 Connecticut Ave	Norwalk	CT
325	7077 Arundel Mills Circle	Hanover	MD
326	1 Westchester Ave	Port Chester	NY
327	5125 Jonestown Rd	Harrisburg	PA
328	1050 Cranberry Square Dr	Cranberry Township	PA
329	2361 Hwy 66	Ocean Township	NJ
330	10 Monocacy Blvd	Frederick	MD
332	202 Costco Dr	Pittsburgh	PA
333	2 Mystic View Rd	Everett	MA
334	14390 Chantilly Crossing	Chantilly	VA
335	1185 Ave 65 Infanteria	San Juan	PR
336	2655 Gulf To Bay Blvd	Clearwater	FL
337	1300 Edwards Ferry Rd	Leesburg	VA
338	1021 Oak Forest Ln	Myrtle Beach	SC
339	4201 West Wendover Ave	Greensboro	NC
340	3102 Plank Rd #600	Fredericksburg	VA
341	3000 Commerce Crossing Rd	Commerce Township	MI

Warehouse No.	Address	City	State
342	1320 South Route #59	Naperville	IL
343	35804 Detroit Rd	Avon	OH
344	1409 Golden Gate Blvd	Cleveland	OH
345	17800 Congress Ave	Boca Raton	FL
346	6110 East 86th St	Indianapolis	IN
347	9010 Michigan Rd	Indianapolis	IN
348	2900 Patriot Blvd	Glenview	IL
349	9350 Marshall Dr	Lenexa	KS
351	7171 Cypress Lake Dr	Forty Myers	FL
352	2431 N Germantown Pkwy	Cordova	TN
353	3775 Hacks Cross Rd	Memphis	TN
354	6275 Naples Blvd	Naples	FL
356	1205 Memorial Pkwy NW	Huntsville	AL
357	4901 Gate Pkwy	Jacksonville	FL
358	10921 Causeway Blvd	Brandon	FL
359	500 Tyvola Rd	Charlotte	NC
360	3050 Ashley Town Ctr Dr	Charleston	SC
361	1085 Hanes Mall Blvd	Winston-Salem	NC
362	3650 Galleria Circle	Hoover	AL
364	2399 Rd 2 KM 15.5	Bayamon	PR
365	Plaza Centro Mall II	Caguas	PR
367	2125 Matthew Township Pk	Matthews	NC
368	4200 Rusty Rd	St. Louis	MO
369	12221 Blue Valley Pkwy	Overland Park	KS
370	1310 E 79th Ave	Merrillville	IN
371	505 W Army Trail Rd	Bloomingtondale	IL
372	12547 Riverdale Blvd	Coon Rapids	MN
373	19040 E Valley View Pkwy	Independence	MO
374	45460 Market St	Shelby Township	MI
375	241 East Linwood Blvd	Kansas City	MO
376	400 Brown Rd	Auburn Hills	MI
378	680 S Rand Rd	Lake Zurich	IL
379	1100 East Kemper Rd	Springdale	OH
380	2746 N Clybourn Ave	Chicago	IL
381	7300 S Cicero Ave	Bedford Park	IL
382	200 Costco Way	St. Peters	MO
383	7311 N Melvina Ave	Niles	IL
386	98 Seaboard Ln	Brentwood	TN
387	1375 N Meacham Rd	Schaumburg	IL
388	1901 W 22nd St	Oak Brook	IL
390	13700 Middlebelt Rd	Livonia	MI

Warehouse No.	Address	City	State
391	20000 Haggerty Rd	Livonia	MI
403	101 Town Center Pkwy	Santee	CA
407	6255 E Grant Rd	Tucson	AZ
410	12324 Hoxie Ave	Norwalk	CA
411	17900 Newhope St	Fountain Valley	CA
412	1220 W Foothill Blvd	Azusa	CA
418	900 South Harbor Blvd	Fullerton	CA
420	2001 East Ventura Blvd	Oxnard	CA
422	451 S Airport Blvd	S San Francisco	CA
424	2200 E Willow St	Signal Hill	CA
427	15255 North Hayden Rd	Scottsdale	AZ
428	2207 W Commonwealth	Alhambra	CA
429	33961 Doheny Park Rd	San Juan Capistrano	CA
431	3901 W Costco Dr	Tucson	AZ
432	480 N McKinley St	Corona	CA
436	1445 W Elliot Rd	Tempe	AZ
437	8810 Tampa Ave	Northridge	CA
438	11260 White Rock Rd	Rancho Cordova	CA
439	1471 S Havana St	Aurora	CO
440	6400 W 92nd Ave	Westminster	CO
441	72-800 Dinah Shore Dr	Palm Desert	CA
443	7900 W Quincy Ave	Littleton	CO
445	22633 Savi Ranch Pkwy	Yorba Linda	CA
447	18649 Via Princessa	Santa Clarita	CA
452	12350 Carmel Mountain Rd	San Diego	CA
453	5101 Business Center Dr	Fairfield	CA
454	115 Technology Dr	Irvine	CA
459	1345 N Montebello Blvd	Montebello	CA
460	895 East H St	Chula Vista	CA
462	951 Palomar Airport Blvd	Carlsbad	CA
465	4502 East Oak St	Phoenix	AZ
466	3911 Hwy 69	Prescott	AZ
468	8686 Park Meadows Ctr Dr	Littleton	CO
469	8125 Fletcher Pkwy	La Mesa	CA
471	1600 Expo Pkwy	Sacramento	CA
472	1339 N Davis Rd	Salinas	CA
474	7095 Market Place Dr	Goleta	CA
475	1600 El Camino Real	S San Francisco	CA
476	2751 Skypark Dr	Torrance	CA
478	1099 E Hospitality Ln	San Bernardino	CA
480	600 Marshall Rd	Superior	CO

Warehouse No.	Address	City	State
481	1415 N Arizona Ave	Gilbert	AZ
483	650 Gateway Center Dr	San Diego	CA
484	648 East 800 South	Orem	UT
485	94-1231 Ka Uka Blvd	Waipahu	HI
486	8505 West Gage Blvd	Kennewick	WA
488	2345 Fenton Pkwy	San Diego	CA
489	5300 Overton Ridge Blvd	Ft. Worth	TX
490	19001 N 27th Ave	Phoenix	AZ
579	1700 Mount Zion Rd	Morrow	GA
644	2887 South Market St	Gilbert	AZ
659	5901 Redwood Dr	Rohnert Park	CA
660	1201 39th SW	Puyallup	WA
661	3801 Pelandale Ave	Modesto	CA
662	1725 S Burlington Blvd	Burlington	WA
664	3800 N Central Expressway	Plano	TX
665	1646 W Montebello	Phoenix	AZ
667	500 Eubank Blvd SE	Albuquerque	NM
668	600 West Arbrook Blvd	Arlington	TX
669	2601 E State Hwy 114	Southlake	TX
670	5601 East Sprague Ave	Spokane	WA
672	835 North 3050 East	St. George	UT
673	791 Marks St	Henderson	NV
674	17550 N 79th Ave	Glendale	AZ
676	5195 Wadsworth Blvd	Arvada	CO
677	1051 Burbank Blvd	Burbank	CA
678	11800 4th St	Rancho Cucamonga	CA
679	17550 Castelton St	City of Industry	CA
681	10401 Research Blvd	Austin	TX
682	3031 Killdeer Ave	Albany	OR
685	801 South Pavilion Dr	Las Vegas	NV
686	9404 Central Ave	Montclair	CA
687	525 Alakawa St	Honolulu	HI
688	3800 Rosedale Hwy	Bakersfield	CA
690	27220 Heather Ridge Rd	Laguna Niguel	CA
691	10000 W McDowell Rd	Avondale	AZ
692	1255 NE 48th Ave	Hillsboro	OR
693	1201 N Loop 1604 East	San Antonio	TX
694	1051 Hume Way	Vacaville	CA
735	573 West 100 North	W Bountiful	UT
736	595 S Galleria Way	Chandler	AZ
737	6555 N Decatur Blvd	Las Vegas	NV

Warehouse No.	Address	City	State
738	2450 E Beardsley Rd	Phoenix	AZ
742	15915 Pines Blvd	Pembroke Pines	FL
743	2855 Jordan Court	Alpharetta	GA
744	4901 Wilson Ave	Wyoming	MI
745	2330 Hwy 93 N	Kalispell	MT
747	24008 Snohomish Woodinville Rd	Woodinville	WA
748	5401 Katella Ave	Cypress	CA
749	100 Centerton Rd	Mt. Laurel	NJ
760	7251 Camino Arroyo	Gilroy	CA
761	2051 S Cole Rd	Boise	ID
762	1141 West Ave L	Lancaster	CA
764	5201 S Intermountain Dr	Murray	UT
765	1800 Cavitt Dr	Folsom	CA
767	3900 20th St E	Fife	WA
768	6101 Gateway West Blvd	El Paso	TX
769	3560 West Century Blvd	Inglewood	CA
770	3656 Wall Ave	South Ogden	UT
771	7000 Auburn Blvd	Citrus Heights	CA
772	6720 NE 84th St	Vancouver	WA
773	355 East Neider Ave	Coeur D'Alene	ID
774	250 N Randall Rd	Lake in the Hills	IL
775	12155 Tech Center Dr	Poway	CA
777	101 N Beach Blvd	La Habra	CA
778	43621 Pacific Commons Blvd	Fremont	CA
779	999 N Elmhurst Rd	Mt. Prospect	IL
780	75 Freshwater Blvd	Enfield	CT
781	1130 Broadway	Chula Vista	CA
782	2955 N Tegner Rd	Turlock	CA
783	12011 Technology Dr	Eden Prairie	MN
786	6700 Whitmore Lake Rd	Brighton	MI
788	7205 Mills Civic Pkwy	West Des Moines	IA
823	22330 Hathaway Ave	Hayward	CA

APPENDIX B

REFRIGERANT COMPLIANCE MANAGEMENT PLAN

Costco Wholesale Corporation

This Refrigerant Compliance Management Plan (CMP) was developed to promote and monitor Costco's compliance with Section 608 of the Clean Air Act and implementing regulations, the purpose of which is "to reduce emissions of class I and class II refrigerants and their substitutes to the lowest achievable level by maximizing the recapture and recycling of such refrigerants during the service, maintenance, repair and disposal of appliances" 40 C.F.R. § 82.150(a). This CMP establishes policies and procedures to direct Costco's use and maintenance of regulated refrigerants and refrigeration equipment. This CMP applies to appliances that contain 50 or more pounds of class II refrigerants (**regulated refrigeration equipment**) at Costco warehouses in the United States. If any general statements as to the purpose or policy of this CMP conflict with any of the specific requirements or directives in this CMP, the specific requirements or directives shall control.

A. POLICY

Costco is committed to providing a safe workplace and complying with all environmental regulatory requirements. Costco does not currently use class I refrigerants. Costco shall, in compliance with the policies and procedures set forth in this CMP, implement management practices related to use of refrigerants and maintenance and repair of regulated refrigerant equipment, and monitor and update an electronic data management system in order to track compliance with applicable regulations.

B. ORGANIZATION AND OVERSIGHT

1. Purpose

To establish an organizational system for implementing the policies and procedures in this CMP and to describe the responsibilities of personnel responsible for implementing this CMP, and to preserve warehouse autonomy while maintaining company-wide consistency by allowing for corporate oversight and verification of compliance.

2. General Organizational Structure

Costco employees at the individual warehouse and corporate levels have specific responsibilities related to the implementation of this CMP. The main personnel positions responsible for implementing the provisions of this CMP are the Warehouse Refrigerant Representatives and the Refrigerant Compliance Supervisors. Specific responsibilities are described in the subsections below. Costco uses the *Verisae* data management system (**Verisae system**), an electronic data management system, to track information associated with its refrigerant systems at all warehouses that use regulated refrigerant equipment in the United States. This system will be utilized by Costco employees, as discussed below, to implement this CMP.

3. Warehouse Refrigerant Representative

Costco shall designate one employee in each warehouse subject to this CMP as the “**Warehouse Refrigerant Representative**.” Warehouse Refrigerant Representatives are responsible for monitoring individual contractor compliance with electronic data entry requirements set forth in Section G (*Verisae* system). Specific duties of the Warehouse Refrigerant Representative include:

- Using and understanding the *Verisae* system and populating reports;
- Assisting the Refrigerant Compliance Supervisors (as defined in Section B.4 below) as necessary;
- Helping contractors to understand and use the *Verisae* system to track repairs of all regulated refrigeration equipment;
- For those Warehouses that pay contractors, monitoring whether contractors have uploaded required leak repair data into the *Verisae* system prior to Costco’s payment of invoices for the associated work;
- Monitoring the *Verisae* system data entries;
- Maintaining hard copies of regulated refrigeration equipment service records, as discussed further in Section G;
- Assisting the Refrigerant Compliance Supervisors to investigate and evaluate any compliance issues with this CMP.

4. Refrigerant Compliance Supervisor

Costco shall designate two or more persons located at Costco Corporate Headquarters in Issaquah, Washington, to serve as Refrigerant Compliance Supervisors (each, an **RCS**, and together, **RCSs**). At least one RCS will be a member of Costco’s Energy Department (**RCS – Energy**), and at least one RCS will be a member of Costco’s Purchasing Department (**RCS – Purchasing**). The RCSs are responsible for overseeing individual warehouse and contractor compliance with this CMP as well as coordinating U.S. company-wide responses to address noncompliance. Specific duties of the RCSs include:

- Using and understanding the *Verisae* system and populating reports;
- Reviewing notices of leaks and noncompliance (RCS – Energy) and ensuring appropriate corrective actions are taken including, if necessary, initiating (with Costco’s Legal Department) written notice to EPA (RCS – Purchasing);
- For those Warehouses for which personnel at Costco’s Corporate Headquarters pay invoices from contractors, monitoring whether contractors have uploaded required

leak repair data into the *Verisae* system prior to Costco's payment of invoices for the associated work;

- Uploading and maintaining the *Verisae* system inventory of regulated refrigeration equipment (RCS – Energy);
- Monitoring the *Verisae* system to identify leaks that require repair, and notifying the appropriate Warehouse Refrigerant Representative if a leak is not repaired within seven (7) days in advance of the regulatory deadline (RCS – Energy); coordinating leak investigations and determining appropriate corrective actions (RCS – Purchasing); preparing written report regarding leak incidents (RCS – Purchasing);
- Periodically compiling reports using data from the *Verisae* system in order to determine:
 - which twenty-five (25) warehouses have the highest refrigerant emissions;
 - which warehouses have had no refrigerant added to systems in the past twelve (12) months;
 - the average timeframe within which each independent contractor completes necessary repairs; and
 - which individual pieces of regulated refrigeration equipment were repaired more than three times in the previous twelve (12) months.

(reports prepared by RCS – Energy and reviewed by RCS – Purchasing)

- Monitoring the *Verisae* system for compliance issues related to refrigerant emissions, contractor performance, or chronically malfunctioning equipment and contacting the appropriate Warehouse Refrigerant Representative(s) or contractor to determine the cause of the problem and to design and implement necessary corrective actions (RCS – Purchasing);
- Working with Costco's Legal Department to coordinate the addition of any new requirements to this CMP (RCS – Energy and RCS – Purchasing);
- Monitoring and updating employee training programs (RCS – Energy);
- Ensuring Costco corporate personnel remain apprised of obligations under this Consent Decree (RCS – Purchasing).

5. Costco Warehouse Managers

Individual Costco warehouse managers are responsible for monitoring compliance with this CMP as well as applicable regulations.

6. Independent Contractors

Costco uses independent contractors to perform necessary refrigerant installation, maintenance, and repair work. Contractors shall provide Costco with only EPA-certified technicians, as discussed in Section F2 below. Contractors must properly use the *Verisae* system to report repairs of regulated refrigerant equipment or risk nonpayment of invoices.

C. ACCOUNTABILITY AND RESPONSIBILITY

1. Purpose

To create procedures to help achieve company-wide compliance with this CMP.

2. Internal Accountability

The RCSs are required to meet periodically (at least every six (6) months) with the Legal Department to report and address issues regarding company-wide compliance with this CMP, including identified amendments to environmental requirements and updates to employee training programs, as well as any identified noncompliance at individual warehouses.

3. Third-Party Accountability

In order to foster accountability for third-party actions, Costco shall seek to hold individuals directly responsible for accurate leak reporting and repair, *i.e.*, independent contractors, responsible for actions or failures to act that lead to assessment of civil and administrative penalties, and/or material violations of this CMP.

D. ENVIRONMENTAL REQUIREMENTS

1. Purpose

To endeavor to ensure Costco remains apprised of any regulatory developments affecting this CMP and has procedures to update this CMP.

2. Environmental Review

An attorney in Costco's Legal Department shall be tasked with monitoring legislation and rulemaking activity regulated appliances and shall report new requirements to Warehouse Refrigerant Representatives and the RCSs as developed. The Costco Legal Department shall also work with the RCSs to incorporate new requirements into this CMP and shall distribute the updated document, along with a summary of regulatory changes, to employees at individual warehouse and corporate levels who are involved with the implementation of this CMP, as well as third-party contractors involved in the maintenance and repair of regulated refrigeration equipment. The RCS – Energy is also responsible for ensuring that training programs identified in Section H are updated to reflect changes in requirements.

E. ASSESSMENT, PREVENTION AND CONTROL

1. Purpose

To establish the following management practices (MPs) and evaluation procedures to seek to prevent or control reasonably foreseeable releases of refrigerants and minimize other risks of noncompliance with applicable refrigerant regulations.

2. Management Practices

The following MPs shall apply to Costco's use of class II refrigerants, maintenance of regulated refrigeration equipment, and interactions between Costco and independent contractors that service Costco's regulated refrigeration equipment:

- No knowing release or venting of any regulated refrigerant to the atmosphere shall be made.
- Costco's regulated refrigerant use shall be managed pursuant to EPA regulations and any other applicable federal requirements, including recordkeeping and repair requirements in 40 C.F.R. Part 82, Subpart F.
- Use, maintenance, repair, and replacement of all regulated refrigeration equipment shall also be conducted pursuant to the above-mentioned regulations. Any apparent violation of such regulations shall be investigated and reported pursuant to procedures outlined in Section F of this CMP.
- All contractors responsible for maintenance and repair of regulated refrigeration equipment shall be certified according to EPA requirements in 40 C.F.R. § 82.161, and as discussed in more detail in Section F.2 below.

3. Contractor Evaluations

The RCS – Purchasing is responsible for facilitating evaluations of independent contractors' compliance with applicable standards and regulations in at least five (5) warehouses randomly selected annually. All evaluation results shall be documented in a report to the appropriate Warehouse Refrigerant Representative, and the RCS – Purchasing shall further investigate any negative results to determine if corrective actions are necessary. The RCS – Purchasing is also responsible for initiating, with the assistance of the appropriate Warehouse Refrigerant Representative, evaluation of a contractor when *Verisae* system reports run pursuant to Section B.4, or other pertinent information, demonstrates the contractor's frequent noncompliance with this CMP.

4. Warehouse Audits

Costco warehouse operations auditors will perform audits of all Costco warehouses subject to this CMP, in order to assess compliance with this CMP and all applicable federal refrigerant regulations. Costco shall audit each warehouse subject to this CMP annually. Each warehouse

that is not audited within one year of the last audit shall be audited within the 90 days following the one-year anniversary of the prior audit. Auditors must ensure that each warehouse has identified personnel, including the Warehouse Refrigerant Representative, that are sufficiently trained to comply with the Warehouse Refrigerant Representative's obligations as described in this CMP, and confirm that independent contractors are required to upload data to the *Verisae* system prior to Costco's payment of invoices for the associated work. Audit results shall be reported to the RCSs and the appropriate Warehouse Refrigerant Representative, and any reports of noncompliance shall be addressed according to the procedures identified in Section F.

F. SYSTEM MAINTENANCE

1. Purpose

To detail which persons may perform refrigerant services and maintenance.

2. Refrigerant Technicians

EPA requires certification testing for any person conducting service, maintenance, repair, or recovery work on a refrigerant system. Costco requires that only certified technicians perform such activities. Technicians must have a certification card showing training in an EPA-approved program. In the event of an EPA inspection, technicians must be able to do the following:

- Present their certification cards;
- Recite the relevant recovery vacuum levels for the refrigerants currently in use;
- State the leak trigger rates for the over 50 pound EPA equipment classifications;
- Demonstrate the proper use of a refrigerant recovery system, confirm that leak tests are performed on recovery units, and properly calibrate gauges.

G. LEAK REPAIR, INVESTIGATIONS, AND REPORTING

1. Purpose

To promptly address, investigate, and report leaks and to establish procedures relating to leaks.

2. Leak Repair

All regulated commercial refrigeration systems exhibiting an annual leak rate in excess of 35% and all regulated comfort cooling appliances exhibiting an annual leak rate in excess of 15% shall be repaired within 30 days of leak detection as required by EPA regulations. Repairs will be performed by certified technicians. A leak is considered to be repaired if the leak rate is reduced below the 35% threshold. Leak repairs must follow all EPA-approved procedures, including refrigerant evacuation and recovery/recycling, and verification.

If a commercial refrigeration appliance with an annual leak rate in excess of 35% or a comfort cooling appliance with an annual leak rate in excess of 15% cannot be repaired within 30 days of leak detection, then the Warehouse Refrigerant Representative and RCS – Purchasing will determine appropriate actions.

3. Leak Investigations

Warehouse Refrigerant Representatives are required, upon request from an RCS, to investigate any incident of apparent non-compliance with applicable refrigerant regulations, such as failure to repair leaks in regulated refrigeration equipment within 30 days. The Warehouse Refrigerant Representative and RCS – Purchasing will coordinate an investigation to determine the root cause of the incident, corrective actions taken, and any recommended changes in procedures, policies, or personnel in order to minimize the risk of continued incidents, and the RCS – Purchasing will document same in a written report. Costco's Legal Department will review each investigation report. Individual warehouse investigation reports will be considered cumulatively during annual audits.

4. Leak Reporting

Contractors shall record specific data regarding the equipment and repairs on Service Record forms and enter such information into the *Verisae* system as described in Section H, in order to track compliance with regulations, and equipment and contractor performance.

H. RECORDKEEPING

1. Purpose

To comply with EPA regulations requiring owners and operators of refrigeration equipment containing Class II refrigerants to maintain records. EPA may request reports documenting refrigerant usage, service, maintenance, and disposal for the past three years. Costco's CMP ensures compliance with these requirements by establishing record-keeping procedures through the use of the *Verisae* system.

2. Leak Monitoring

If a regulated refrigeration equipment leak is identified, the independent contractor shall enter the information into the *Verisae* system, including all of the information on the attached "Refrigerant Tracking Form 1C." The *Verisae* system shall be the primary method for documenting leaks and repair events. If contractors provide hard-copy records to Costco regarding leaks and repair events, the Warehouse Refrigerant Representative shall keep such hard copies on-site indefinitely.

3. General Monitoring

Costco will also monitor its regulated refrigerant use and compliance with applicable regulations through the *Verisae* system. Records will be maintained for at least 3 years after the termination

of the Consent Decree. Responsibilities regarding monitoring and maintenance of the *Verisae* system are as follows:

- Contractors are responsible for uploading data regarding equipment leaks and repairs to the *Verisae* system, to facilitate tracking of applicable leak rates and repair deadlines. It is Costco's policy to withhold payment of contractor invoices until the contractor uploads the required data.
- The RCS – Energy is responsible for uploading and accurately maintaining the *Verisae* system inventory of regulated refrigeration equipment, which includes comfort cooling, commercial refrigeration, industrial process refrigeration, and any other regulated refrigeration equipment. The inventory will include location and identification information for all regulated refrigeration equipment. The RCS – Energy is also responsible for uploading and accurately maintaining the *Verisae* system inventory regarding refrigerant types and quantities for each piece of regulated refrigeration equipment.
- Warehouse Refrigerant Representatives shall endeavor to ensure that contractors understand and comply with *Verisae* system data-entry requirements, and must monitor all *Verisae* system data entries and address upcoming repair deadlines noted in the *Verisae* system.
- The RCS – Energy is responsible for notifying individual warehouses of leaks identified in the *Verisae* system that are not repaired within seven (7) days before the regulatory deadline.
- The RCS – Purchasing will work with contractors and the Warehouse Refrigerant Representative to address and effectuate such repairs prior to the regulatory deadline.
- The RCS – Energy is responsible for running various system-wide reports described above in Section B.2 in order to monitor warehouse, contractor and equipment performance.
- Warehouse Refrigerant Representatives and the RCSs are responsible for understanding how to access and interpret the *Verisae* system, and how to design and run necessary reports.

I. TRAINING

1. Purpose

To develop training programs for employees and ensure that all relevant personnel are properly trained to implement the requirements of this CMP.

2. Available Training

Costco will develop and implement training programs as follows:

- Refrigerant Tracking (*Verisae*)
- Legal Requirements for Managing Refrigeration

Individual training records shall be maintained and examined as part of the contractor evaluations and warehouse audits described in Section E.

The RCSs shall be responsible for revising training programs to address regulatory changes, as described in Section D, as well as personnel and compliance issues identified through individual evaluations, audits, and incident investigations.

J. ENVIRONMENTAL PLANNING AND ORGANIZATIONAL DECISION-MAKING

1. Purpose

To accomplish integration of environmental considerations with Costco's larger corporate governance process.

2. Corporate Environmental Planning

Environmental planning related to this CMP and Costco's compliance with applicable refrigerant management regulations shall, where practicable, be integrated into Costco's overall corporate decision-making process. For example, the RCS – Purchasing must ensure that corporate personnel responsible for capital improvements are aware of Costco's obligations under this CMP, the applicable regulations, and any applicable agreements or consent decrees, as well as specific information related to Costco's use of regulated refrigerants, including cost and phase-out dates.

K. PROGRAM EVALUATION

1. Purpose

To develop procedures for evaluating and improving this CMP.

2. Evaluation Requirements

In order to ensure that Costco's implementation of this CMP is effectively achieving stated goals, the RCSs will communicate with Warehouse Refrigerant Representatives to evaluate implementation of this CMP and discuss and adopt improvements to address identified weaknesses in the program.

L. APPLICABLE FEDERAL RULES AND REGULATIONS

1. Purpose

To identify relevant federal regulations applicable to refrigerant systems.

2. 40 C.F.R. Part 82

40 C.F.R Part 82 governs the use of ozone-depleting substances and therefore applies to the use of refrigerants. The primary requirements of 40 C.F.R Part 82 are:

- To maximize recycling of ozone-depleting compounds, such as CFCs and HCFCs during the servicing and disposal of refrigeration equipment.
- To prohibit any knowing releases of refrigerants during maintenance, service, repair, or disposal.
- To set certification requirements for the recovery and recycling of refrigeration equipment.
- To ensure that refrigerants are sold only to certified technicians and appliance manufacturers.
- To require persons repairing or disposing of refrigeration equipment to certify to EPA that they have complied with the requirements of the rule.
- To repair any regulated commercial refrigeration system with an annual leak rate in excess of 35%, and any regulated comfort cooling appliance with an annual leak rate in excess of 15%, within 30 days of leak detection as required by EPA regulations.
- To establish safe disposal practices for refrigerants.
- To set certification requirements for technicians and reclaimers.